



Minutes of the April 24, 2019 Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; Hon. Richard A. Nass; and Meri N. Lowry

Staff: Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel

Mr. Lee convened the meeting at 9:11 a.m. Commissioner Bradford Pattershall could not be in attendance due to a scheduling conflict.

1. Ratification of Minutes of March 6, 2019 Meeting

Mr. Nass moved to accept the minutes of the March 6th meeting. Ms. Lowry seconded. Mr. Lee noted the word “proposal” in the second paragraph of the second page should be amended to say “proposed.” The motion passed (3-0).

In keeping with past practice, the Commission took an agenda item out of order to accommodate members of the public attending the meeting.

3. Final Adoption of 2018 Rule Changes – Recounts and Litigation affecting Maine Clean Election Act Candidates

Mr. Wayne said the Commission undertook a rulemaking in 2018 that addressed, among other things, how Maine Clean Election Act candidates may finance activities related to a post-election recount or litigation. The Commission held a public hearing on the proposed rule on April 25, 2018 and received no public comments at the hearing or in writing. The Commission provisionally adopted the rule on May 30, 2018. In March 2019, the Maine Legislature authorized the final adoption of these amendments without change.

Ms. Lowry made a motion to finally adopt amendments to Chapter 3 of the Commission’s Rules as proposed. Mr. Nass seconded. The motion passed (3-0).

2. Request for Waiver of Late-Filing Penalty – Senate Democratic Campaign Committee

Mr. Wayne said the Senate Democratic Campaign Committee (SDCC) was required to file a quarterly PAC campaign finance report on January 15, 2019. The PAC's new treasurer entered the contribution and expenditure information on time but did not file the report until one day after the deadline. The PAC requested a waiver of the \$1,010.50 preliminary penalty, due to the inexperience of the treasurer and the small degree of harm to the public.

Julia Brown, the treasurer of the SDCC, appeared before the Commission. She stated that she had been entering transactions in the e-filing system over several months, from October through January. Prior to the deadline, she previewed the report but failed to hit the file button when she was done. She said it was user error that caused the report to be late, not a technical issue with the system.

Ms. Lowry and Mr. Nass commented that the contribution of \$50,000 to the Maine Democratic Party (MDP) was a significant transaction that was reported late. Ms. Brown acknowledged that concern but said the MDP had reported receiving the contribution in its January Quarterly Report and the public had access to that information on time.

Mr. Lee said that it was clear to him that the intent was to comply rather than any intent to conceal the information.

Mr. Lee made a motion to adopt the staff recommendation and reduce the statutorily calculated penalty of \$1,010.50 to \$750. Ms. Lowry seconded. The motion passed (3-0).

4. Proposed Rule Changes – Disclosure of Campaign Debts and Gift/Travel Costs

Mr. Wayne summarized the status of a rulemaking initiated by the Commission in December 2018. The rulemaking sought to clarify how candidates and others disclose their unpaid campaign debts. The proposed rule amendments also would require Legislators and other officials receiving a gift or travel reimbursement over \$300 to disclose a category or description of the gift/travel reimbursement in their annual statement of the sources of their income. The Commission received oral comments from lobbyist Robert Howe at a March 6, 2019 public hearing and email comments from two members of the public before the comment period closed on March 18, 2018. If adopted, the proposed amendments would be routine technical and would

not require review by the Legislature. The Commission staff recommended adopting the amendments as proposed in December 2018. The Commission discussed objections by Mr. Nass to the additional requirement to disclose a category or description of a gift/travel reimbursement. Mr. Nass expressed concerns about the large quantity of information that officials are already required to disclose in their annual income statements and the additional burden of researching the hotel, meal or conference costs that are sometimes provided to officials complimentary when they are invited to a conference or educational event.

Mr. Lee made a motion to adopt the proposed rule changes. Ms. Lowry seconded. The motion passed (2-1, Mr. Nass opposed).

5. Update on Audits of 2018 Maine Clean Election Act Candidates

Jennifer Conners of Runyon Kersteen Oullette (RKO) appeared before the Commission to provide an update on the progress of the post-election audits of 2018 Maine Clean Election Act candidates. Forty-six legislative and three gubernatorial candidates have been selected for audit. All were notified in January and given until February to submit materials requested by RKO for the audits. Seven audit reports are complete. Ms. Conners said she expects the remainder will be done by June.

In response to a question from the Commissioners, Ms. Conners explained how the selection process operated and how candidates who spent a greater amount on their campaigns were given more weight than other candidates in the selection process. She said no consideration was given to the party affiliation of the candidates.

Other Business

The Commissioners discussed the plans for the Commission staff to review the financial activity of political action committees. Mr. Wayne said the staff plans to request bank statements from selected PACs and compare the statements with the PACs' campaign finance reports to verify compliance with the reporting requirements. This review will begin in 2020 after all PACs have been notified that the Commission is undertaking this review.

Mr. Nass asked Mr. Wayne about the status of Governor Mills' inaugural committee which had been covered in recent press reports. Mr. Wayne said the committee had received a late invoice

from a vendor than was significantly higher than the quoted price and would need to continue fundraising to pay that vendor. The committee will be filing additional reports. The Commissioners requested Mr. Wayne to provide an update on the committee at the June meeting.

Mr. Nass moved to adjourn. Ms. Lowry seconded. The motion passed (3-0).

The meeting adjourned at 10:20 a.m.

Respectfully submitted,
/s/ Jonathan Wayne
Jonathan Wayne, Executive Director